

Federal Communications Commission

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

MM DOCKET NO. 96-123

FAMILY BROADCASTING, INC.

File No. BRH-951204YE

For Renewal of License

for Station WSTX (FM)

Christiansted, Virgin Islands

G. Luz A. James, Esq. on behalf of Family Broadcasting, Inc., *Norman J. Goldstein* and *Jacqueline E. Ellington, Esq.* on behalf of the Chief Mass Media Bureau.

SUMMARY DECISION OF ADMINISTRATIVE LAW JUDGE
EDWARD LUTON

Adopted: June 13, 1997

Released: June 18, 1997

I. Preliminary Statement

1. Family Broadcasting, Inc., seeks summary disposition of the following issues specified against its renewal application:

- (1) To determine whether Family Broadcasting, Inc., has the capability and intent to expeditiously resume the broadcast operations of WSTX (FM), consistent with the Commission's Rules.
- (2) To determine whether Family Broadcasting, Inc., has violated Section 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine, in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

II. Findings of Fact

2. Family is the license of WSTX (FM), Christiansted, Virgin Islands. WSTX (FM) discontinued operations on October 15, 1994. Family's December 4, 1995 renewal application indicated that the station experienced "severe problems with equipment because of its close proximity and exposure to the sea, and therefore has been off the airwaves intermittently." To resolve those problems, Family stated that an application would be made to the Commission seeking approval for a site change. The station suffered further damage in September, 1995, when Hurricane Marilyn removed the roof housing the station's studio and destroyed some equipment.

3. Family's application was designated for hearing on May 30, 1996. The station was still off the air at that time. On November 22, 1996, the parties jointly requested that the procedural dates in this proceeding be suspended to give Family a final opportunity to resume broadcasting. By Order, FCC 96M-263, released December 6, 1996, the joint request was granted and all procedural dates were suspended. Family's Motion for Summary Decision, filed March 7, 1997, states that WSTX (FM) resumed operations on January 18, 1997, and has operated continuously since that time.

III. Conclusions of Law

4. Family's resumption of station operations on January 18, 1997 and its continuous operation of the station since that time indicate both Family's capability and intent to resume operations. Issue 1 is resolved in Family's favor. No violation of Section 73.1750 (permanent discontinuance of operation) will be found. Family's return of the station to the air and its submission of a renewal application indicate that Family never intended to permanently discontinue station operations.


5. Family's motion is silent with regard to the licensee's compliance with Section 73.1740 of the Rules. Here, willful and repeated violations occurred. Section 73.1740 required Family to submit an informal request for the station to remain silent due to circumstances beyond Family's control. Family never filed a request for the station to remain silent even though the station had been silent for almost nineteen months prior to the issuance of the Hearing Designation Order on May 30, 1996. From October 15, 1994 to January 18, 1997, when operations were resumed, WSTX (FM) was off the air without authority.

6. Issue (3) seeks to determine whether Family is qualified to be and remain the licensee of WSTX (FM). Family's resumption of broadcasting indicates that it is so qualified. Family willfully and repeatedly violated Section 73.1740 of the Commission's Rules but the violations, when considered in light of the return of WSTX (FM) to the air, do not justify denial of Family's license renewal application.

7. The ultimate issue for determination is whether Family's license to operate WSTX (FM) should be renewed. On that question, no genuine issue as to any material fact remains for determination at hearing, so summary decision can be granted.

Accordingly, IT IS ORDERED THAT THE Motion for Summary Decision IS GRANTED and Family's Renewal Application IS GRANTED. ^{1/}

FEDERAL COMMUNICATIONS COMMISSION



Edward Luton
Administrative Law Judge

¹ In the event exceptions are not filed within (30) days after the release of this Summary Decision, and the Commission does not review the case on its own motion, this Summary Decision shall become effective (30) thirty days after its release pursuant to Section 1.276 (d), of the Commission's Rules.